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Pendente Lite guardian for , an alleged incapacitated person

FILED

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BONNIE J. MIZDOL, A.J.S.C.

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| In the matter of | SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION: PROBATE PART BERGEN COUNTY DOCKET NO.: P-383-22 |
| ROBERT J. SHIVER, | <u>Civil Action</u> |
| an alleged incapacitated person | ORDER APPOINTING <i>PENDENTE LITE</i> GUARDIAN OF THE PERSON AND PROPERTY |

THIS MATTER being opened to the Court by James L. Fant, Esq., attorney for the Plaintiff, Kessler Institution for Rehabilitation, (the "Plaintiff") for a judgment declaring Robert J. Shiver, an incapacitated person and appointing a guardian pursuant to *Rules* 4:86-1 to 8, and for such other relief as the Court may deem just, and the Court having read and considered the Verified Complaint, the supporting certifications or affidavits, and all other papers and pleadings filed in this matter, and the Court having read the November 4, 2022, status report filed by Randy M. Pearce, Esq., court appointed attorney for Robert J. Shiver, indicating that there is a risk of substantial harm to person and property of Robert J. Shiver, and the Court determining *sua sponte* pursuant to *N.J.S.A.* 3B:12-24.1 that there is an emergent need to appoint a *pendente lite* Guardian of the Person and Property for Robert J. Shiver to preserve and protect his interests, and for good cause shown:

IT IS on this 17th day of November 2022,

ORDERED that Robert J. Shiver is an incapacitated person and in need of a plenary guardian for his person and property; and it is further

ORDERED Melanie Costantino, Esq., is appointed as the *pendente lite* Guardian of the Person and Property for Robert J. Shiver; and it is further

ORDERED that the *pendente lite* Guardian shall enter into a surety bond unto the Superior Court of New Jersey in the amount of \$ 0, which bond shall contain the conditions set forth in N.J.S.A. 3B:15-7 and R. 1:13-3. The court shall approve the bond as to form and sufficiency; and it is further

ORDERED that the *pendente lite* Guardian shall have the authority to investigate and apply for public benefits (e.g. Medicaid) as appropriate and necessary on behalf of Robert J. Shiver; and it is further

ORDERED that the *pendente lite* Guardian shall have all the authority to make medical decisions for Robert J. Shiver; and it is further

ORDERED that the *pendente lite* Guardian shall, every thirty (30) days hereinafter, provide an accounting of the current value of all financial accounts and disbursements to the attorney for the alleged incapacitated person; and it is further

ORDERED that any power of attorney or healthcare directive previously executed by Robert J. Shiver be and is hereby revoked; and it is further

ORDERED that the *pendente lite* Guardian appointed is hereby regarded as a HIPAA (Health Insurance Portability and Accountability Act) representative for the alleged incapacitated person and shall have the right and power to examine complete medical records, including medical and psychiatric records and written charts, pertaining to the alleged incapacitated person, and to visit and confer with the alleged incapacitated person; and it is further

ORDERED that the *pendente lite* Guardian may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval. The *pendente lite* Guardian can maintain assets and pay normal expenses for the alleged incapacitated until a permanent guardian is appointed; and it is further

ORDERED that the *pendente lite* Guardian shall have the authority to do an asset search and a search of Robert J. Shiver's credit with the three (3) major Credit Reporting Agencies, Equifax, Transunion, and Experian; and it is further

ORDERED that the *pendente lite* Guardian shall have the authority to investigate any and all legal claims and/or lawsuits for and against Robert J. Shiver in New York, Florida, or any other jurisdiction, notably Ruben's Moving & Storage, LLC vs. Robert James Shiver, Case No.: 2021-005940-SP-05, in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, and Johnna L. Ayres vs. Robert J. Shiver, Robert J. Shiver, LLC, and Prudent Revere Capital Group, Inc., Docket No.: 1:21-cv-00473-ERK-PK, United States District Court for the Eastern District of New York, should such claims exist and/or arise during the pendency of her appointment; and it is further

ORDERED that the attorney-client privilege extended to Robert J. Shiver with any and all attorneys who have been retained to represent him in any lawsuit shall be extended to the *pendente lite* Guardian; and it is further

ORDERED that *pendente lite* Guardian shall have the authority to discuss any and all aspects of any pending lawsuit that Robert J. Shiver is named as a plaintiff or defendant; and it is further

ORDERED that the *pendente lite* Guardian shall have the authority to hire and/or discharge legal counsel in New York, Florida, or any jurisdiction whereby Robert J. Shiver is named as a plaintiff or defendant; and it is further

ORDERED that all interested persons and/or entities, including but not limited to financial institutions, medical facilities and government agencies are hereby NOTICED that the Bergen County Surrogate's Court does not issue Letters of Temporary Guardianship during the pendency of proceedings and, in lieu thereof, this Order shall serve as sole and full authority for Melanie Costantino Esq. to act in the capacity as Temporary Guardian of the person and estate of Robert J. Shiver; and it is further


ORDERED that if Robert J. Shiver has no assets in which to pay the Temporary Guardian, Melanie Costantino, Esq., then all fees for the Temporary Guardian will be paid by the Plaintiff; and it is further

ORDERED that this Order can be modified upon two (2) days' notice to the Court and to all parties on a Notice of Motion on Short Notice; and it is further

ORDERED that this Order shall expire in forty-five days pursuant to N.J.S.A. 3B:12-24.1(c)(8), unless extended by the Court for good cause shown; and it is further

ORDERED that this matter be set for a hearing insofar as the appointment of a plenary guardian for Robert J. Shiver on January 4, 2023 at 1:30 a.m./p.m.; and it is further

ORDERED that a copy of this Order be served upon all interested parties within ten (10) days of the date of this Order.



Honorable Bonnie J. Mizdol, A.J.S.C.